

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Linda Sable

Petitioner-Appellant,

v.

Polk County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-77-1288
Parcel No. 181/00424-316-000**

On June 14, 2010, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Linda Sable, was self-represented and requested the appeal proceed without a hearing. The Polk County Board of Review designated Assistant County Attorneys, Ralph Marasco, Jr. and David Hibbard, as its legal representatives. Neither party submitted new evidence in addition to the certified record. The Appeal Board having reviewed the entire record, and being fully advised, finds:

Findings of Fact

Sable is the owner of a residentially classified, single-family residence located at 409 NE 9th Street, Ankeny, Iowa. The property is a split-foyer built in 1975, and has 994 square feet of total living area. There is a 906 square foot basement with 294 square feet of "living quarters" finish. The property also has 452 square feet of deck area, 100 square feet of enclosed porch area, and a 26 foot by 24 foot detached garage built in 1976. The site is .195 acres.

Sable protested to the Polk County Board of Review regarding the 2009 assessment. The January 1, 2009, total assessment of Sable's property was \$150,100 allocated as follows: \$28,500 in land value and \$121,600 in improvement value.

Sable's protest was based on the following grounds: 1) that the assessment is not equitable as compared with the assessments of other like property in the taxing district under section 441.37(1)(a); and, 2) that there has been a downward change since the last assessment under section's 441.37(1) and 441.35. Sable also marked an "x" on the line available for asserting a claim of error. However, she did not indicate what the error was and this is assumed to be an errant marking. The board denied Sable's protest.

In her petition to this Board, Sable marked the ground that there is fraud in the assessment under section 441.37(1)(e). Her plain language assertion for this claim is "they charged me for years for a fireplace and I've never had one." This statement is essentially an error claim, which was not considered to have been petitioned to the Board of Review. We will not consider a claim of error.

While Sable did not mark any other specific grounds on the form, within the margins of the petition she wrote "homes have gone down in value in my neighborhood," which we consider a plain language statement asserting downward change. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and consider only the claim of over-assessment.

Sable supplied four properties as equity comparables to the Board of Review citing their tax district/parcel number, street address and assessed value. There was no indication from Sable if these properties have either recently sold or what their fair market value was in comparison to their assessments. There is no information provided by Sable to either the Board of Review or to this Board, to demonstrate these properties are similar to the subject, or how they demonstrate inequity.

Sable did not make any assertions to either the Board of Review or to this Appeal Board regarding her belief of the correct value of the property. Sable offered no evidence to either Board in relation to a market value claim.

The Polk County Board of Review did not offer any evidence outside of the certified record. The Board of Review Appraiser Analysis indicates “the owner” offered equity comparables, however two of those properties were not considered comparable by the appraiser. The appraiser does not explain why these two properties would not be considered comparable. The appraiser considered two of the properties submitted by Sable, and two additional properties, concluding the opinion the subject property is equitable with other like properties. However, the appraiser analysis does not offer any insight as to why this opinion was formed. The two properties selected by the appraiser, along with the four properties Sable considers as equity comparables, are presented on a grid. But this appears to be a cost analysis comparison versus an equity analysis. The appraiser presents no written explanation as to what the grids are demonstrating.

The Board of Review offered no evidence regarding a claim of over-assessed.

We find that insufficient evidence has been provided to demonstrate the subject is assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only


those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

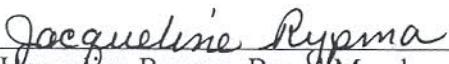
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Sable failed to offer any recent sales of similar properties to demonstrate what she believes to be the correct value of the property.

THE APPEAL BOARD ORDERS that Sable's property, located at 409 NE 9th Street, Ankeny, Iowa, assessment as of January 1, 2009, set by the Polk County Board of Review, is affirmed.

Dated this 15 day of July, 2010


Karen Oberman, Board Chair


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-15</u> 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	